

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

AMERICAN AERIAL SERVICES, INC.,)
)
Plaintiff)
)
v.)
)
TEREX USA, LLC, and)
THE EMPIRE CRANE COMPANY, LLC,)
)
Defendants)

DOCKET NO: 2:12-CV-00361-GZS

PLAINTIFF AMERICAN AERIAL SERVICES, INC.'S
DISCLOSURE OF EXPERT WITNESSES

Pursuant to Fed.R.Civ.P. 26, Plaintiff American Aerial Services, Inc. ("American Aerial"), makes the following disclosure of expert witnesses:

1. Dennis Eckstine
Eckstine & Associates
10817 Partridge Drive
Waynesboro, PA 17268

Mr. Eckstine has extensive experience in cranes and crane manufacturing; his education background and experience is set forth in the CV attached to his report. Mr. Eckstine has been retained as an expert in connection with the litigation of this matter and has submitted a report consistent with Fed.R.Civ.P. 26(a)(B) which is attached as Exhibit A.

Mr. Eckstine is expected to testify that the crane purchased by American Aerial from Terex USA, LLC contained significant and substantial defects which prevented American Aerial from using the crane in its crane rental and steel erection business. The defects in the Model T780 crane are set forth in the attached report from Mr. Eckstine and Mr. Eckstine is expected to testify consistent with that report. As a result of the defects in the Model T780, Mr. Eckstine is expected to testify that Defendants Terex USA, LLC and The Empire Crane Company, LLC



materially breached the purchase and sale contract and warranties related to the Model T780 crane.

Mr. Eckstine may review additional documents which have not yet been produced by Defendants in discovery and may have additional or supplemental opinions and conclusions.

2. Edward P. Cox, Ph.D, P.E., CWI
Haag Engineering
625 Industrial Boulevard
Sugar Land, TX 77478

Mr. Cox is a professional engineer and has extensive experience in welding and in cranes as shown on the CV attached to his report. Mr. Cox is an expert retained in the litigation and has issued a report pursuant to Fed.R.Civ.P. 26(a)(B) which is attached as Exhibit B. Mr. Cox is expected to testify consist with that report. Mr. Cox is likely to review additional documents including documents not yet produced by Defendants in discovery. After review of those documents, as well as other discovery material, Mr. Cox may have additional and/or supplemental conclusions and opinions.

3. Reginald E. Perry, CPA\ABV, BVAL, CVA, CFFA
PFBF
46 First Park Drive
Oakland, ME 04530

Mr. Perry is a certified public accountant. His background and education are set forth in the CV attached to his report. Mr. Perry is an expert retained for the litigation and has issued a report pursuant to Fed.R.Civ.P. 26(a)(B) which is attached hereto as Exhibit C. Mr. Perry is expected to testify consistent with that report.

Since discovery is not yet completed in this matter, after review of additional material produced in discovery, Mr. Perry may have additional opinions and conclusions.

4. James Read
American Aerial Services, Inc.
33 Allen Avenue Extension
Falmouth, ME 04105

Mr. Read is the owner and president of American Aerial Services, Inc. and is not an expert retained for litigation. Mr. Read is expected to testify as a fact witness concerning the problems and defects with the Model T780 crane and the impact on American Aerial's business. This testimony of Mr. Read will also be based on his expertise in the steel erection and crane business from years in that industry. Mr. Read is expected to testify that he purchased the Model T780 crane in December 2011 and he expected to be able to utilize the new Model T780 crane to expand and enhance the crane rental business of American Aerial. The Model T780, because of the numerous defects including manufacturing defects, was not able to be utilized in American Aerial's crane rental business or effectively used in its steel erection business after resulting in substantial losses to American Aerial. Mr. Read is expected to testify that American Aerial expended \$30,700 on sales tax; \$14,260 for excise tax; \$3,227.86 payment to Cummins; \$89,768 in substitute crane rental expense through July 31, 2013 and continuing; approximately \$15,000 in labor cost related to crane rental; approximately \$5,000 in crane insurance; approximately \$17,000 in interest expense on borrowed money; \$36,915.83 in interest on crane finance loan; and approximately \$10,000 in management time on crane problems. Mr. Read may also testify that American Aerial incurred additional overtime labor costs because of the unavailability of the Model T780. In addition, Mr. Read may also testify as to the cost of remedying the defects in the Model T780 crane, as well as the diminished value of the Model T780 crane because of those defects. Mr. Read may also testify as to the damages incurred by American Aerial calculated by Mr. Perry and contained in Mr. Perry's report.

5. Paul H. Roberts
Roaring Brook Consultants, Inc.
15 Sewall Road
South Berwick, ME 04908

Mr. Roberts performed an inspection of the Model T780 crane on August 30, 2012, before this litigation was filed. Mr. Roberts is not an expert retained to provide expert testimony in this litigation. Mr. Roberts has issued a report of his inspection and that report is attached hereto as Exhibit D.

Mr. Roberts is expected to testify that the Model T780 crane failed the inspection on August 30, 2012 performed pursuant to OSHA standards. The deficiencies determined to exist during his inspection are listed in the attached report and those deficiencies include defective welds on the Model T780 jib and boom. Mr. Roberts is expected to testify that the failure of the Model T780 crane to pass the OSHA inspection meant that the Model T780 crane could not be put back into service in the condition it existed in at the time of the inspection.

6. Thomas Beverly
KB Inspection Service
220 Industrial Way
Portland, ME 04101

Mr. Beverly and KB Inspection Service performed a nondestructive examination of the Model T780 crane in September 2012. Mr. Beverly's testimony is expected to be consistent with the report attached hereto as Exhibit E including the fact that the Model T780 crane had defective welds in the jib and boom.

7. Brian D. O'Connell
Shawmut Equipment Company, Inc.
20 Tolland Turnpike
Manchester, CT 06042

Mr. O'Connell is a vice-president at Shawmut Equipment Company, Inc. and has experience and expertise in mobile truck cranes and the servicing and repairs for mobile truck cranes. Mr. O'Connell has not been retained as an expert in this litigation. Mr. O'Connell is expected to testify that the quotation dated July 23, 2013 and attached hereto as Exhibit F is a reasonable estimate of the cost of the repairs listed on Exhibit F. Further, Mr. O'Connell is expected to testify that, although Shawmut Equipment Company is not a Terex dealer, he is familiar with Terex cranes and the repairs quoted are for a make and model Grove crane that is comparable to the Model T780 Terex crane.

Additional Experts and Expert Testimony

American Aerial reserves the right to add additional experts, as well as provide additional and/or supplemental designated testimony. The above designated experts are expected to review discovery material not yet provided by Defendants, as well as the expert disclosures and reports provided by other parties in this litigation, accordingly the above designated experts may have additional and/or supplemental opinions and conclusions.

American Aerial incorporates by reference and reserves the right to call as expert witnesses any and all expert witnesses designated by all other parties.

American Aerial reserves the right to call the individuals listed herein to testify at trial, but does not affirmatively represent that any such individual will ultimately be called to testify at trial. American Aerial also reserves the right to designate other expert witnesses should any of the experts become unavailable for trial. This disclosure statement does not include witnesses who have information relevant for the purposes of contradiction, rebuttal, or impeachment.

Dated at Portland, Maine this 5th day of August, 2013.



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CERTIFICATE OF SERVICE

I, John A. Hobson, Esq., attorney for Plaintiff American Aerial Delivery, LLC, hereby certify that on August 5, 2013, I served a copy of Plaintiff's Disclosure of Expert Witnesses, via the United States Postal Service, First Class Mail, on the following counsel of record:

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